



General Assembly

February Session, 2010

Raised Bill No. 110

LCO No. 134

* _____SB00110CE_FIN031710_____*

Referred to Committee on Commerce

Introduced by:
(CE)

***AN ACT ELIMINATING THE SUNSET FOR CERTAIN TAX
INCREMENTAL FINANCING PROGRAMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-23zz of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) For the purpose of assisting (1) any information technology
5 project, as defined in subsection (ee) of section 32-23d, which is located
6 in an eligible municipality, as defined in subdivision (12) of subsection
7 (a) of section 32-9t, or (2) any remediation project, as defined in
8 subsection (ii) of section 32-23d, the Connecticut Development
9 Authority may, upon a resolution of the legislative body of a
10 municipality, issue and administer bonds which are payable solely or
11 in part from and secured by: (A) A pledge of and lien upon any and all
12 of the income, proceeds, revenues and property of such a project,
13 including the proceeds of grants, loans, advances or contributions from
14 the federal government, the state or any other source, including
15 financial assistance furnished by the municipality or any other public
16 body, (B) taxes or payments or grants in lieu of taxes allocated to and

17 payable into a special fund of the Connecticut Development Authority
 18 pursuant to the provisions of subsection (b) of this section, or (C) any
 19 combination of the foregoing. Any such bonds of the Connecticut
 20 Development Authority shall mature at such time or times not
 21 exceeding thirty years from their date of issuance and shall be subject
 22 to the general terms and provisions of law applicable to the issuance of
 23 bonds by the Connecticut Development Authority, except that such
 24 bonds shall be issued without a special capital reserve fund as
 25 provided in subsection (b) of section 32-23j and, for purposes of section
 26 32-23f, only the approval of the board of directors of the authority shall
 27 be required for the issuance and sale of such bonds. Any pledge made
 28 by the municipality or the Connecticut Development Authority for
 29 bonds issued as provided in this section shall be valid and binding
 30 from the time when the pledge is made, and revenues and other
 31 receipts, funds or moneys so pledged and thereafter received by the
 32 municipality or the Connecticut Development Authority shall be
 33 subject to the lien of such pledge without any physical delivery thereof
 34 or further act. The lien of such pledge shall be valid and binding
 35 against all parties having claims of any kind in tort, contract or
 36 otherwise against the municipality or the Connecticut Development
 37 Authority, even if the parties have no notice of such lien. Recording of
 38 the resolution or any other instrument by which such a pledge is
 39 created shall not be required. In connection with any such assignment
 40 of taxes or payments in lieu of taxes, the Connecticut Development
 41 Authority may, if the resolution so provides, exercise the rights
 42 provided for in section 12-195h of an assignee for consideration of any
 43 lien filed to secure the payment of such taxes or payments in lieu of
 44 taxes. All expenses incurred in providing such assistance may be
 45 treated as project costs.

46 (b) Any proceedings authorizing the issuance of bonds under this
 47 section may contain a provision that taxes or a specified portion
 48 thereof, if any, identified in such authorizing proceedings and levied
 49 upon taxable real or personal property, or both, in a project each year,
 50 or payments or grants in lieu of such taxes or a specified portion

51 thereof, by or for the benefit of any one or more municipalities,
52 districts or other public taxing agencies, as the case may be, shall be
53 divided as follows: (1) In each fiscal year that portion of the taxes or
54 payments or grants in lieu of taxes which would be produced by
55 applying the then current tax rate of each of the taxing agencies to the
56 total sum of the assessed value of the taxable property in the project on
57 the date of such authorizing proceedings, adjusted in the case of grants
58 in lieu of taxes to reflect the applicable statutory rate of
59 reimbursement, shall be allocated to and when collected shall be paid
60 into the funds of the respective taxing agencies in the same manner as
61 taxes by or for said taxing agencies on all other property are paid; and
62 (2) that portion of the assessed taxes or the payments or grants in lieu
63 of taxes, or both, each fiscal year in excess of the amount referred to in
64 subdivision (1) of this subsection shall be allocated to and when
65 collected shall be paid into a special fund of the Connecticut
66 Development Authority to be used in each fiscal year, in the discretion
67 of the Connecticut Development Authority, to pay the principal of and
68 interest due in such fiscal year on bonds issued by the Connecticut
69 Development Authority to finance, refinance or otherwise assist such
70 project, to purchase bonds issued for such project, or to reimburse the
71 provider of or reimbursement party with respect to any guarantee,
72 letter of credit, policy of bond insurance, funds deposited in a debt
73 service reserve fund, funds deposited as capitalized interest or other
74 credit enhancement device used to secure payment of debt service on
75 any bonds issued by the Connecticut Development Authority to
76 finance, refinance or otherwise assist such project, to the extent of any
77 payments of debt service made therefrom. Unless and until the total
78 assessed valuation of the taxable property in a project exceeds the total
79 assessed value of the taxable property in such project as shown by the
80 last assessment list referred to in subdivision (1) of this subsection, all
81 of the taxes levied and collected and all of the payments or grants in
82 lieu of taxes due and collected upon the taxable property in such
83 project shall be paid into the funds of the respective taxing agencies.
84 When such bonds and interest thereof, and such debt service
85 reimbursement to the provider of or reimbursement party with respect

86 to such credit enhancement, have been paid in full, all moneys
 87 thereafter received from taxes or payments or grants in lieu of taxes
 88 upon the taxable property in such development project shall be paid
 89 into the funds of the respective taxing agencies in the same manner as
 90 taxes on all other property are paid. The total amount of bonds issued
 91 pursuant to this section which are payable from grants in lieu of taxes
 92 payable by the state shall not exceed an amount of bonds, the debt
 93 service on which in any state fiscal year is, in total, equal to one million
 94 dollars.

95 (c) The authority may make grants or provide loans or other forms
 96 of financial assistance from the proceeds of special or general
 97 obligation notes or bonds of the authority issued without the security
 98 of a special capital reserve fund within the meaning of subsection (b)
 99 of section 32-23j, which bonds are payable from and secured by, in
 100 whole or in part, the pledge and security provided for in section 8-134,
 101 8-192, 32-227 or this section, all on such terms and conditions,
 102 including such agreements with the municipality and the developer of
 103 the project, as the authority determines to be appropriate in the
 104 circumstances, provided any such project in an area designated as an
 105 enterprise zone pursuant to section 32-70 receiving such financial
 106 assistance shall be ineligible for any fixed assessment pursuant to
 107 section 32-71, and the authority, as a condition of such grant, loan or
 108 other financial assistance, may require the waiver, in whole or in part,
 109 of any property tax exemption with respect to such project otherwise
 110 available under subsection (59) or (60) of section 12-81.

111 (d) As used in this section, "bonds" means any bonds, including
 112 refunding bonds, notes, temporary notes, interim certificates,
 113 debentures or other obligations; "legislative body" has the meaning
 114 provided in subsection (w) of section 32-222; and "municipality" means
 115 a town, city, consolidated town or city or consolidated town and
 116 borough.

117 (e) For purposes of this section, references to the Connecticut
 118 Development Authority shall include any subsidiary of the

119 Connecticut Development Authority established pursuant to
120 subsection (l) of section 32-11a, and a municipality may act by and
121 through its implementing agency, as defined in subsection (k) of
122 section 32-222.

123 [(f) No commitments for new projects shall be approved by the
124 authority under this section on or after July 1, 2012.]

125 [(g)] (f) In the case of a remediation project, as defined in subsection
126 (ii) of section 32-23d, that involves buildings that are vacant,
127 underutilized or in deteriorating condition and as to which municipal
128 real property taxes are delinquent, in whole or in part, for more than
129 one fiscal year, the amount determined in accordance with subdivision
130 (1) of subsection (b) of this section may, if the resolution of the
131 municipality so provides, be established at an amount less than the
132 amount so determined, but not less than the amount of municipal
133 property taxes actually paid during the most recently completed fiscal
134 year. If the Connecticut Development Authority issues bonds for the
135 remediation project, the amount established in the resolution shall be
136 used for all purposes of subsection (a) of this section.

137 Sec. 2. Section 32-285 of the 2010 supplement to the general statutes
138 is repealed and the following is substituted in lieu thereof (*Effective*
139 *October 1, 2010*):

140 (a) (1) There is hereby established a tax incremental financing
141 program, under which the incremental hotel taxes collected under
142 subparagraph (H) of subdivision (2) of subsection (a) of section 12-407,
143 which are generated by a project approved by the authority under this
144 section may be used to pay the debt service on bonds issued by the
145 authority to help finance, on a self-sustaining basis, significant
146 economic projects and encourage their location in the state.

147 (2) The incremental sales taxes collected under chapter 219, other
148 than the sales tax referenced in subdivision (1) of this subsection, and
149 admissions, cabaret and dues taxes collected under chapter 225 which

150 are generated by a project may, subject to approval pursuant to this
 151 section by the joint standing committees of the General Assembly
 152 having cognizance of matters relating to the Department of Economic
 153 and Community Development and finance, revenue and bonding, and
 154 the authority, be used to pay the debt service on bonds issued by the
 155 authority to help finance, on a self-sustaining basis, significant
 156 economic projects and encourage their location in the state.

157 (b) As used in this section: (1) "Authority" means the Connecticut
 158 Development Authority; and (2) "eligible project" means a large-scale
 159 economic development project (A) that may add a substantial amount
 160 of new economic activity and employment in the municipality in
 161 which it is to be located and surrounding areas, and may generate
 162 significant additional tax revenues in the state; (B) for which use of the
 163 tax incremental financing mechanism may be necessary to attract the
 164 project to locate in the state; (C) which is economically viable and self-
 165 sustaining, taking into account the application of the proceeds of the
 166 bonds to be issued under the tax incremental financing program; (D)
 167 for which the direct and indirect economic benefits to the state and the
 168 municipality in which it will be located outweigh the costs of the
 169 project; and (E) which is consistent with the strategic development
 170 priorities of the state.

171 (c) Any person, firm or corporation wishing to participate in the tax
 172 incremental financing program, or any municipality wishing to obtain
 173 tax incremental financing to support a project within its boundaries,
 174 may apply to the authority in accordance with the provisions of this
 175 subsection. The application shall contain such information as the
 176 authority may require, which may include information concerning the
 177 type of business proposed to be established and its location, the
 178 number of jobs to be created or retained and their average wage rates,
 179 feasibility studies or business plans for the project and other
 180 information necessary to demonstrate its financial viability, the
 181 amounts and types of bonds proposed to be issued for the project and
 182 the proposed use of the proceeds, information about other sources of

183 financing available to support repayment of the bonds proposed to be
184 issued, including property tax increments to be made available by the
185 municipality, a geographic description of the area surrounding the
186 proposed site of the project and the existing firms doing business in
187 that area, an economic impact assessment of the effects of the project
188 on the municipality, an assessment of the incremental hotel taxes, or, if
189 applicable, the incremental sales and admissions, cabaret and dues
190 taxes to be generated by the project, an analysis of necessary
191 infrastructure development to support the project and any available
192 sources of financing for such infrastructure and other information
193 which demonstrates that the bonds will be self-sustaining from the
194 incremental taxes collected and any amounts made available by a
195 municipality under subsection (i) of this section, and that the project
196 will provide net benefits to the economy and employment opportunity
197 in the state. The authority shall impose a fee for such application as it
198 deems appropriate. Any costs incurred by the authority which are
199 associated with such application and are not covered by such fee shall
200 be paid from funds of the authority which are not otherwise
201 committed or pledged.

202 (d) Upon receiving an application for participation in the tax
203 incremental financing program and any supporting information, the
204 executive director of the authority shall make a preliminary
205 determination as to whether a proposed project may be eligible for
206 participation in the program.

207 (e) (1) The authority shall review each application that has been
208 preliminarily determined to be eligible under subsection (d) of this
209 section. In reviewing an application, the authority shall obtain such
210 additional information as may be necessary to make a final
211 determination as to whether the project is eligible for participation in
212 the program, whether the project is economically viable with use of the
213 tax incremental financing mechanism, the effects of the project on the
214 municipality and whether the project would provide net benefits to
215 economic development and employment opportunity in the state. The

216 authority may require the project sponsor to submit such additional
217 information as may be necessary to evaluate the application.

218 (2) The authority shall retain such financial advisors and other
219 experts as it deems appropriate to conduct an independent financial
220 assessment of the application and supporting information, including,
221 in particular, the amount of the incremental hotel taxes, or, if
222 applicable, the incremental sales and admissions, cabaret and dues
223 taxes to be generated by the project, whether the project will be
224 economically viable and whether the bonds will be self-sustaining.

225 (3) The authority shall prepare a revenue impact assessment that
226 estimates the incremental hotel taxes or, if applicable, the incremental
227 sales and admissions, cabaret and dues taxes that would be generated
228 by the project, the state and local revenues that would be foregone as a
229 result of the project, all state and local revenues that would be
230 generated by the project and the economic benefits that would likely
231 result from construction of the project, including revenue effects of
232 such economic benefits.

233 (4) (A) Not later than seventy-two hours before presenting a
234 proposed project to the board of directors of the authority for final
235 approval, if such project uses incremental hotel taxes, the executive
236 director of the authority shall give notice of the proposed project and
237 meeting to the president pro tempore and minority leader of the
238 Senate, the speaker and minority leader of the House of
239 Representatives and the chairpersons and ranking members of the
240 joint standing committees of the General Assembly having cognizance
241 of matters relating to finance, revenue and bonding and the
242 Department of Economic and Community Development. Such notice
243 shall include such information about the project, the estimated tax
244 increments and the revenue impact assessment, as may be appropriate,
245 consistent with the protection of any confidential financial information
246 provided by the project sponsor. Any such member of the General
247 Assembly may, by notifying the executive director, request that the
248 board of directors of the authority defer final consideration of the

249 project for thirty days.

250 (B) If such project uses incremental sales and admissions, cabaret
 251 and dues taxes, the notice required pursuant to subparagraph (A) of
 252 this subdivision shall not be required, but the procedure in subdivision
 253 (6) of subsection (f) of this section shall be followed after the board of
 254 directors of the authority has given approval to such project.

255 (f) (1) Upon consideration of the application, the results of the
 256 independent financial assessment, the revenue impact assessment and
 257 any additional information that the board of directors of the authority
 258 requires concerning a proposed project, such board of directors shall
 259 determine whether to approve the project for participation in the tax
 260 incremental financing program and, if so, the amount and type of
 261 bonds the authority shall issue to support the approved project, the
 262 purposes for which the funds generated by sale of the bonds may be
 263 applied and the amount of the incremental sales and admissions,
 264 cabaret and dues taxes that shall be annually allocated to pay principal
 265 and interest on the bonds to be issued for the project. The amounts so
 266 allocated shall not exceed the estimated amount of incremental taxes to
 267 be collected, except that in the case of retail shopping center projects,
 268 the amount of incremental sales allocated to calculating incremental
 269 sales taxes shall not exceed thirty per cent of gross sales directly
 270 associated with the project. From the amount of incremental taxes so
 271 allocated by the authority, the amount required for payment of
 272 principal and interest on the bonds issued in accordance with
 273 subsection (g) of this section shall be deemed appropriated from the
 274 state General Fund, provided, for projects using incremental sales and
 275 admissions, cabaret and dues taxes, an amount shall be deemed
 276 appropriated only upon final approval of such projects pursuant to
 277 subdivision (6) of this subsection.

278 (2) The authority may approve a project only if it concludes that: (A)
 279 The project is an eligible project; (B) the incremental hotel taxes or, if
 280 applicable, the incremental sales taxes collected under chapter 219 and
 281 the incremental admissions, cabaret and dues taxes collected under

282 chapter 225 that are generated by the project, together with other
283 dedicated sources of financing available to pay debt service on the
284 bonds, will be sufficient to pay interest and principal on the bonds as
285 they come due; (C) the project will be economically viable and will
286 contribute significantly to economic development and employment
287 opportunity in the state; and (D) the direct and indirect economic
288 benefits of the project to the state and the municipality in which it shall
289 be located will be greater than the costs to the state and such
290 municipality.

291 (3) The authority shall seek to obtain diversification among the
292 types of projects supported under this program and among the
293 geographic regions in the state in which projects are located.

294 (4) The approval of a project by the authority may be combined with
295 the exercise of any of its other powers, including but not limited to, the
296 provision of other forms of financial assistance. The proceeds of the
297 bonds may be combined with any other funds available from state or
298 federal programs, or from investments by the private sector, to support
299 the project.

300 (5) Upon approving a project, the authority may require the project
301 sponsor to reimburse the authority for all or any part of the costs of the
302 independent financial assessment conducted in reviewing the
303 application and any other related costs incurred.

304 (6) For final approval of any proposed project using incremental
305 sales and admissions, cabaret and dues taxes, the authority shall
306 submit, in a manner consistent with the protection of any confidential
307 financial information provided by the project sponsor, copies of the
308 application, the independent financial assessment, the revenue impact
309 assessment, and the proposed financial assistance to be offered by the
310 authority to the proposed project, to the joint standing committees of
311 the General Assembly having cognizance of matters relating to the
312 Department of Economic and Community Development and finance,
313 revenue and bonding for final approval. Not later than forty-five days

314 after said committees' receipt of such proposed project information,
315 said committees shall advise the authority of their approval or
316 modifications, if any, to such proposed financial assistance. If said
317 committees do not agree, the committee chairpersons shall appoint a
318 committee on conference which shall be comprised of three members
319 from each joint standing committee. At least one member appointed
320 from each committee shall be a member of the minority party. The
321 report of the committee on conference shall be made to each
322 committee, which shall vote to accept or reject the report. The report of
323 the committee on conference may not be amended. If a joint standing
324 committee rejects the report of the committee on conference, the
325 proposed financial assistance shall be deemed approved. If the joint
326 standing committees accept the report, the committee having
327 cognizance of finance, revenue and bonding shall advise the authority
328 of their approval or modifications, if any, of such proposed financial
329 assistance, provided, if the committees do not act within forty-five
330 days, the proposed financial assistance shall be deemed approved.
331 Financial assistance by the authority for the proposed project shall be
332 in accordance with the proposed financial assistance as approved or
333 modified by the committees.

334 (g) (1) The authority may issue one or more series of bonds in
335 accordance with the provisions of chapter 579, to the extent not
336 inconsistent with the provisions of this subsection, payable in whole or
337 in part from the incremental taxes allocated and deemed appropriated
338 from the state General Fund under subsection (f) of this section and
339 any amounts contributed by a municipality under subsection (i) of this
340 section, to finance a project approved under this section or to refund
341 bonds previously issued under this section. The authority is
342 authorized to make a grant of all or part of the proceeds of such bonds
343 to any person in connection with the acquisition, construction and
344 equipping of an eligible project, including the expense of the state or
345 any municipality, or any instrumentality or agency of the state or any
346 municipality, in connection therewith. Subject to applicable federal tax
347 law, the authority may issue such bonds, the interest on which is

348 excludable from gross income for federal income tax purposes, or such
 349 bonds, the interest on which is not so excludable. The authority, when
 350 authorizing the issuance of any series of such bonds, shall, in
 351 conjunction with the State Treasurer, determine the rate of interest of
 352 such bonds, the date or dates of their maturity, the medium of
 353 payment, the redemption terms and privileges, whether such bonds
 354 shall be sold by negotiated or competitive sale and any and all other
 355 terms, covenants and conditions not inconsistent with this section, in
 356 connection with the issuance thereof, including but not limited to, the
 357 pledging of special capital reserve funds authorized under subsection
 358 (b) of section 32-23j.

359 (2) The issuance of any bonds by the authority under this section
 360 shall be subject to the approval of the State Bond Commission. Upon
 361 approving a project, the authority shall submit the matter to the State
 362 Bond Commission for final approval. The State Bond Commission
 363 shall not approve any project unless it has received the submission
 364 from the authority at least ten days prior to the meeting at which such
 365 project is to be considered. Such submission shall include the
 366 information considered by the authority in approving the project, the
 367 independent financial assessment and such other information as the
 368 commission deems appropriate. In reaching its decision, the State
 369 Bond Commission may consider such information as submitted. After
 370 such approval by the Bond Commission, no other approval shall be
 371 required for the project.

372 (h) For such period of time as bonds issued to support an approved
 373 project are outstanding, the Treasurer shall make payment of interest
 374 and principal on the bonds to the trustee when due, but not exceeding
 375 in any fiscal year the amount deemed appropriated pursuant to
 376 subsection (f) of this section.

377 (i) A portion of the proceeds of bonds issued pursuant to this
 378 section may be made available to a municipality in which a project is
 379 located for the purpose of carrying out or administering a
 380 redevelopment plan or other functions authorized under chapter 130

381 or chapter 132. Such municipality may contribute all or any part of the
 382 money specified in subdivision (2) of section 8-134a or subdivision (b)
 383 of section 8-192a to the authority for the payment of principal and
 384 interest on the bonds issued by the authority under this section to
 385 support such approved project. In exercising such power, such
 386 municipalities shall proceed as provided in said chapter 130 or 132, as
 387 the case may be, except that the references therein to bonds and bond
 388 anticipation notes shall be deemed to refer to the bonds issued by the
 389 authority under this section.

390 (j) (1) Not later than July first in each year that bonds issued to
 391 support an approved project are outstanding, the authority shall
 392 submit a report to the joint standing committees of the General
 393 Assembly having cognizance of matters relating to the Department of
 394 Economic and Community Development and finance, revenue and
 395 bonding with respect to the operations, finances and achievement of
 396 the economic development objectives of the projects approved under
 397 this section. The authority shall review and evaluate the progress of
 398 each project and shall devise and employ techniques for forecasting
 399 and measuring relevant indices of accomplishment of its goals of
 400 economic development, including, but not limited to, (A) the actual
 401 expenditures compared to original estimated costs, (B) whether there
 402 have been significant cost increases over original estimates, (C) the
 403 number of jobs created, or to be created, by or as a result of the project,
 404 (D) the cost or estimated cost, to the authority, involved in the creation
 405 of those jobs, (E) the amount of private capital investment in, or
 406 stimulated by, the project, in proportion to the public funds invested in
 407 such project, (F) the number of additional businesses created and
 408 associated jobs, and (G) any impact on tourism.

409 (2) Not later than July first in each year that bonds issued to support
 410 an approved project are outstanding, the Office of Policy and
 411 Management shall retain independent financial experts to conduct an
 412 analysis of the financial status of each project approved under this
 413 section. The independent financial analysis shall include, but not be

414 limited to, determinations as to whether the incremental hotel taxes or,
415 if applicable, the incremental sales and admissions, cabaret and dues
416 taxes actually generated by the project are equal to the estimates made
417 at the time the project was approved, whether the project is
418 economically viable and whether the bonds issued are self-sustaining
419 with the incremental taxes actually collected and other financing
420 sources dedicated to repayment of the bonds. The authority shall
421 require the project sponsor to reimburse the Office of Policy and
422 Management for the costs of such annual analyses. The results of such
423 analyses shall be made available to the president pro tempore of the
424 Senate, the speaker of the House of Representatives, the majority and
425 minority leaders of both houses, and to the chairpersons and ranking
426 members of said committees.

427 [(k) No commitments for new projects shall be approved by the
428 authority under this section on or after July 1, 2012.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	32-23zz
Sec. 2	<i>October 1, 2010</i>	32-285

Section 1	<i>October 1, 2010</i>	32-23zz
Sec. 2	<i>October 1, 2010</i>	32-285

CE

Joint Favorable C/R

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